EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT FINANCE ACT 2012 (CONSEQUENTIAL AMENDMENTS) ORDER 2013

2013 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order makes amendments to the Local Government Finance Act 1992 ("the 1992 Act") and the Greater London Authority Act 1999 ("the 1999 Act") consequential to the provisions of the Local Government Finance Act 2012 that provide for a scheme for the local retention of non-domestic rates.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This is the first exercise of the powers in section 20 of the Local Government Finance Act 2012.

4. Legislative Context

4.1 The non-domestic rating system in England and Wales is established by the Local Government Finance Act 1988. The Local Government Finance Act 2012 inserts a new Schedule 7B into the 1988 Act ("the Schedule") which provides for the local retention of a proportion of non-domestic rates collected in England.

5. Territorial Extent and Application

5.1 This instrument applies in England and Wales. Part 1 of the 1992 Act and Part 3 of the 1999 Act extend to England and Wales, but the amended provisions have effect in England only with the exception of section 69 of the 1992 Act.

6. European Convention on Human Rights

Brandon Lewis, Parliamentary Under-Secretary of State at the Department for Communities and Local Government has made the following statement regarding Human Rights:

In my view the provisions of the Local Government Finance Act 2012 (Consequential Amendments) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 This Order forms part of the scheme to allow local retention of non-domestic rates (the rates retention scheme). The scheme is being introduced from April 2013 to give local government a direct share of local non-domestic rating income and thereby an incentive to promote local growth. This will replace the current scheme where-by non-domestic rates are collected by local government, paid to central government and redistributed back to local government via the local government finance report[1].

7.2 Section 31A of the 1992 Act sets out how billing authorities are to calculate their council tax requirements for a year. This Order ensures that transfers between an authority's collection fund and general fund made as a result of the operation of the rates retention scheme are treated appropriately in these calculations.

7.3 The Order also replaces references in both Acts to "redistributed non-domestic rates" with references to rates retained by the authority under the Schedule or, in the case of a major precepting authority, received by it from billing authorities under the provisions of the Schedule. The reference to redistributed non-domestic rates in section 69 of the 1992 Act is retained for the purpose of provisions relating to Wales, but is amended to refer to amounts payable by Welsh Ministers.

7.4 Finally the Order amends references in both Acts to the local government finance report as this report is now made under paragraph 5(1) of the Schedule.

8. Consultation outcome

8.1 Several consultations have been undertaken during development of the rates retention scheme detail, the outcomes of which have been reported and published on the DCLG website. The most recent policy consultation and outcome can be found at:
https://www.gov.uk/government/consultations/business-rates-retention-technical-details

https://www.gov.uk/government/publications/business-rates-retention-policy-statement

8.2 The scheme has been developed in partnership with a working group including local government finance officers, the Chartered Institute of Public Finance and Accountancy and the Local Government Association.

[1] For details see Schedule 8 to the Local Government Finance Act 1988 and the Non-domestic Rating Contributions (England) Regulations 1992 (S.I. 1992/3032)

9. Guidance

9.1 The amendments made by this Order are consequential to the implementation of the rates retention scheme. The Department will issue guidance to local government on various aspects of the scheme.

10. Impact

10.1 An Impact Assessment for the rates retention scheme is available from the DCLG website at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf

A separate Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The rates retention scheme will have no impact on the way in which non-domestic rating bills are calculated.

12. Monitoring & review

12.1 The Government keeps the non-domestic rating system under regular review.

13. Contact

Mark Barnett at the Department for Communities and Local Government, Tel: 0303 444 2585 or email: mark.barnett@communities.gsi.gov.uk can answer any queries regarding the instrument.